

110TH CONGRESS  
1ST SESSION

# S. 1486

To amend the Food Security Act of 1985 to restore integrity to and strengthen payment limitation rules for commodity payments and benefits.

---

## IN THE SENATE OF THE UNITED STATES

MAY 24, 2007

Mr. DORGAN (for himself and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

---

## A BILL

To amend the Food Security Act of 1985 to restore integrity to and strengthen payment limitation rules for commodity payments and benefits.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rural America Preser-  
5 vation Act of 2007”.

6 **SEC. 2. PAYMENT LIMITATIONS.**

7 Section 1001 of the Food Security of 1985 (7 U.S.C.  
8 1308) is amended—

9 (1) in subsection (a)—

1 (A) by striking paragraphs (1) and (2) and  
 2 inserting the following:

3 “(1) ENTITY.—

4 “(A) IN GENERAL.—The term ‘entity’  
 5 means—

6 “(i) an organization that (subject to  
 7 the requirements of this section and sec-  
 8 tion 1001A) is eligible to receive a pay-  
 9 ment under a provision of law referred to  
 10 in subsection (b) or (c);

11 “(ii) a corporation, joint stock com-  
 12 pany, association, limited partnership, lim-  
 13 ited liability company, limited liability  
 14 partnership, charitable organization, grant-  
 15 or of a revocable trust, or other similar en-  
 16 tity (as determined by the Secretary); and

17 “(iii) an organization that is partici-  
 18 pating in a farming operation as a partner  
 19 in a general partnership or as a participant  
 20 in a joint venture.

21 “(B) EXCLUSION.—The term ‘entity’ does  
 22 not include a general partnership or joint ven-  
 23 ture.

24 “(2) INDIVIDUAL.—The term ‘individual’  
 25 means—

1           “(A) a natural person, and any minor child  
 2           of the natural person (as determined by the  
 3           Secretary), who, subject to the requirements of  
 4           this section and section 1001A, is eligible to re-  
 5           ceive a payment under a provision of law re-  
 6           ferred to in subsection (b), (c), or (d); and

7           “(B) a natural person participating in a  
 8           farming operation as a partner in a general  
 9           partnership, a participant in a joint venture, a  
 10          grantor of a revocable trust, or a participant in  
 11          a similar entity (as determined by the Sec-  
 12          retary).”;

13          (2) by striking subsection (b) and inserting the  
 14          following:

15          “(b) LIMITATION ON DIRECT PAYMENTS.—The total  
 16          amount of direct payments that an individual or entity  
 17          may receive, directly or indirectly, during any crop year  
 18          under subtitle A or C of title I of the Farm Security and  
 19          Rural Investment Act of 2002 (7 U.S.C. 7911 et seq.)  
 20          for 1 or more covered commodities or peanuts shall not  
 21          exceed \$20,000.”;

22          (3) by striking subsection (c) and inserting the  
 23          following:

24          “(c) LIMITATION ON COUNTER-CYCLICAL PAY-  
 25          MENTS.—The total amount of counter-cyclical payments

1 that an individual or entity may receive, directly or indi-  
 2 rectly, during any crop year under subtitle A or C of title  
 3 I of the Farm Security and Rural Investment Act of 2002  
 4 (7 U.S.C. 7911 et seq.) for 1 or more covered commodities  
 5 or peanuts shall not exceed \$30,000.”;

6 (4) by striking subsection (d) and inserting the  
 7 following:

8 “(d) LIMITATIONS ON MARKETING LOAN GAINS,  
 9 LOAN DEFICIENCY PAYMENTS, AND COMMODITY CER-  
 10 TIFICATE TRANSACTIONS.—The total amount of the fol-  
 11 lowing gains and payments that an individual or entity  
 12 may receive during any crop year may not exceed \$75,000:

13 “(1)(A) Any gain realized by a producer from  
 14 repaying a marketing assistance loan for 1 or more  
 15 loan commodities under subtitle B of title I of the  
 16 Farm Security and Rural Investment Act of 2002 (7  
 17 U.S.C. 7931 et seq.) at a lower level than the origi-  
 18 nal loan rate established for the loan commodity  
 19 under that subtitle.

20 “(B) In the case of settlement of a marketing  
 21 assistance loan for 1 or more loan commodities  
 22 under that subtitle by forfeiture, the amount by  
 23 which the loan amount exceeds the repayment  
 24 amount for the loan if the loan had been settled by  
 25 repayment instead of forfeiture.

1           “(2) Any loan deficiency payments received for  
2           1 or more loan commodities under that subtitle.

3           “(3) Any gain realized from the use of a com-  
4           modity certificate issued by the Commodity Credit  
5           Corporation for 1 or more loan commodities, as de-  
6           termined by the Secretary, including the use of a  
7           certificate for the settlement of a marketing assist-  
8           ance loan made under that subtitle or section 1307  
9           of that Act (7 U.S.C. 7957).”;

10           (5) by striking subsection (e);

11           (6) by redesignating subsections (f) and (g) as  
12           subsections (h) and (i), respectively; and

13           (7) by inserting after subsection (d) the fol-  
14           lowing:

15           “(e) PAYMENTS TO INDIVIDUALS AND ENTITIES.—

16           “(1) INTERESTS WITHIN SAME ENTITY.—Any  
17           individual or entity that is an owner of an entity, in-  
18           cluding a shareholder, may not collectively receive  
19           payments, directly or indirectly, that are attributable  
20           to the ownership interest in the entity for a crop  
21           year that exceed an amount equal to twice the appli-  
22           cable dollar amounts specified in subsections (b), (c),  
23           and (d).

24           “(2) ALL INTERESTS.—An individual or entity  
25           may not receive, directly or indirectly, through all

1 ownership interests of the individual or entity, from  
2 all sources, payments for a crop year that exceed an  
3 amount equal to the twice the applicable dollar  
4 amounts specified in subsections (b), (c), and (d).

5 “(f) SINGLE FARMING OPERATION.—

6 “(1) IN GENERAL.—Notwithstanding sub-  
7 sections (b) through (d), subject to paragraph (2),  
8 if an individual or entity participates only in a single  
9 farming operation and receives, directly or indirectly,  
10 any payment or gain covered by this section through  
11 the farming operation, the total amount of payments  
12 or gains (as applicable) covered by this section that  
13 the individual or entity may receive during any crop  
14 year shall not exceed an amount equal to twice the  
15 applicable dollar amounts specified in subsections  
16 (b), (c), and (d).

17 “(2) INDIVIDUALS.—The total amount of pay-  
18 ments or gains (as applicable) covered by this sec-  
19 tion that an individual may receive during any crop  
20 year may not exceed \$250,000.

21 “(g) SPOUSAL EQUITY.—

22 “(1) IN GENERAL.—Notwithstanding sub-  
23 sections (b) through (d), except as provided in para-  
24 graph (2), if an individual and the spouse of the in-  
25 dividual are covered by paragraph (2) and receive,

1 directly or indirectly, any payment or gain covered  
2 by this section, the total amount of payments or  
3 gains (as applicable) covered by this section that the  
4 individual and spouse may jointly receive during any  
5 crop year may not exceed an amount equal to twice  
6 the applicable dollar amounts specified in sub-  
7 sections (b), (c), and (d).

8 “(2) EXCEPTIONS.—

9 “(A) SEPARATE FARMING OPERATIONS.—

10 In the case of a married couple in which each  
11 spouse, before the marriage, was separately en-  
12 gaged in an unrelated farming operation, each  
13 spouse shall be treated as a separate individual  
14 with respect to a farming operation brought  
15 into the marriage by a spouse, subject to the  
16 condition that the farming operation shall re-  
17 main a separate farming operation, as deter-  
18 mined by the Secretary.

19 “(B) ELECTION TO RECEIVE SEPARATE  
20 PAYMENTS.—A married couple may elect to re-  
21 ceive payments separately in the name of each  
22 spouse if the total amount of payments and  
23 benefits described in subsections (b), (c), and  
24 (d) that the married couple receives, directly or  
25 indirectly, does not exceed an amount equal to

1 twice the applicable dollar amounts specified in  
 2 those subsections.”.

3 **SEC. 3. SUBSTANTIVE CHANGE; PAYMENTS LIMITED TO AC-**  
 4 **TIVE FARMERS.**

5 Section 1001A of the Food Security Act of 1985 (7  
 6 U.S.C. 1308–1) is amended—

7 (1) by striking the section designation and  
 8 heading and all that follows through the end of sub-  
 9 section (a) and inserting the following:

10 **“SEC. 1001A. SUBSTANTIVE CHANGE; PAYMENTS LIMITED**  
 11 **TO ACTIVE FARMERS.**

12 “(a) SUBSTANTIVE CHANGE.—

13 “(1) IN GENERAL.—For purposes of the appli-  
 14 cation of limitations under this section, the Sec-  
 15 retary shall not approve any change in a farming op-  
 16 eration that otherwise would increase the number of  
 17 individuals or entities (as defined in section 1001(a))  
 18 to which the limitations under this section apply, un-  
 19 less the Secretary determines that the change is  
 20 bona fide and substantive.

21 “(2) FAMILY MEMBERS.—For the purpose of  
 22 paragraph (1), the addition of a family member (as  
 23 defined in subsection (b)(2)(A)) to a farming oper-  
 24 ation under the criteria established under subsection



1 (b)(3)(B) shall be considered to be a bona fide and  
2 substantive change in the farming operation.

3 “(3) PRIMARY CONTROL.—To prevent a farm  
4 from reorganizing in a manner that is inconsistent  
5 with the purposes of this Act, the Secretary shall  
6 promulgate such regulations as the Secretary deter-  
7 mines to be necessary to attribute payments for a  
8 farming operation to the individual or entity that ex-  
9 ercises primary control over the farming operation,  
10 including to respond to—

11 “(A)(i) any instance in which ownership of  
12 a farming operation is transferred to an indi-  
13 vidual or entity under an arrangement that pro-  
14 vides for the sale or exchange of any asset or  
15 ownership interest in 1 or more entities at less  
16 than fair market value; and

17 “(ii) the transferor is provided preferential  
18 rights to repurchase the asset or interest at less  
19 than fair market value; or

20 “(B) a sale or exchange of any asset or  
21 ownership interest in 1 or more entities under  
22 a financing arrangement under which—

23 “(i) financing is provided by the  
24 transferor; and

1 “(ii) the right to exercise control over  
 2 the asset or interest is conveyed, directly  
 3 or indirectly.”;

4 (2) in subsection (b)—

5 (A) by striking paragraph (1) and insert-  
 6 ing the following:

7 “(1) IN GENERAL.—To be eligible to receive, di-  
 8 rectly or indirectly, payments or benefits described  
 9 as being subject to limitation in subsection (b) or (c)  
 10 of section 1001 with respect to a particular farming  
 11 operation, an individual or entity (as defined in sec-  
 12 tion 1001(a)) shall be actively engaged in farming  
 13 with respect to the farming operation, in accordance  
 14 with paragraphs (2), (3), and (4).”;

15 (B) in paragraph (2)—

16 (i) by striking subparagraphs (A) and  
 17 (B) and inserting the following:

18 “(A) DEFINITIONS.—In this paragraph:

19 “(i) ACTIVE PERSONAL MANAGE-  
 20 MENT.—The term ‘active personal manage-  
 21 ment’ means, with respect to an individual,  
 22 administrative duties carried out by the in-  
 23 dividual for a farming operation—

1 “(I) that are personally provided  
2 by the individual on a regular, sub-  
3 stantial, and continuing basis; and

4 “(II) relating to the supervision  
5 and direction of—

6 “(aa) activities and labor in-  
7 volved in the farming operation;  
8 and

9 “(bb) onsite services directly  
10 related and necessary to the  
11 farming operation.

12 “(ii) FAMILY MEMBER.—The term  
13 ‘family member’, with respect to an indi-  
14 vidual participating in a farming operation,  
15 means an individual who is related to the  
16 individual as a lineal ancestor, a lineal de-  
17 scendant, or a sibling (including a spouse  
18 of such an individual).

19 “(B) ACTIVE ENGAGEMENT.—Except as  
20 provided in paragraph (3), for purposes of  
21 paragraph (1), the following shall apply:

22 “(i) An individual shall be considered  
23 to be actively engaged in farming with re-  
24 spect to a farming operation if—

1 “(I) the individual makes a sig-  
 2 nificant contribution, as determined  
 3 under subparagraph (E) (based on the  
 4 total value of the farming operation),  
 5 to the farming operation of—

6 “(aa) capital, equipment, or  
 7 land; and

8 “(bb) personal labor and ac-  
 9 tive personal management;

10 “(II) the share of the individual  
 11 of the profits or losses from the farm-  
 12 ing operation is commensurate with  
 13 the contributions of the individual to  
 14 the operation; and

15 “(III) a contribution of the indi-  
 16 vidual is at risk.

17 “(ii) An entity shall be consid-  
 18 ered to be actively engaged in farming with  
 19 respect to a farming operation if—

20 “(I) the entity makes a signifi-  
 21 cant contribution, as determined  
 22 under subparagraph (E) (based on the  
 23 total value of the farming operation),  
 24 to the farming operation of capital,  
 25 equipment, or land;

1                   “(II)(aa) the stockholders or  
2                   members that collectively own at least  
3                   50 percent of the combined beneficial  
4                   interest in the entity each make a sig-  
5                   nificant contribution of personal labor  
6                   and active personal management to  
7                   the operation; or

8                   “(bb) in the case of an entity in  
9                   which all of the beneficial interests  
10                  are held by family members, any  
11                  stockholder or member (or household  
12                  comprised of a stockholder or member  
13                  and the spouse of the stockholder or  
14                  member) who owns at least 10 per-  
15                  cent of the beneficial interest in the  
16                  entity makes a significant contribution  
17                  of personal labor or active personal  
18                  management; and

19                  “(III) the entity meets the re-  
20                  quirements of subclauses (II) and  
21                  (III) of clause (i).”;

22                  (ii) in subparagraph (C), by striking  
23                  “clauses (ii) and (iii) of paragraph (A)”  
24                  and inserting “subclauses (II) and (III) of  
25                  subparagraph (B)(i)”;

1 (iii) by adding at the end the fol-  
2 lowing:

3 “(E) SIGNIFICANT CONTRIBUTION OF PER-  
4 SONAL LABOR OR ACTIVE PERSONAL MANAGE-  
5 MENT.—

6 “(i) IN GENERAL.—Subject to clause  
7 (ii), for purposes of subparagraph (B), an  
8 individual shall be considered to be pro-  
9 viding, on behalf of the individual or an  
10 entity, a significant contribution of per-  
11 sonal labor or active personal management,  
12 if the total contribution of personal labor  
13 and active personal management is at least  
14 equal to the lesser of—

15 “(I) 1,000 hours; and

16 “(II) a period of time equal to—

17 “(aa) 50 percent of the com-  
18 mensurate share of the total  
19 number of hours of personal  
20 labor and active personal man-  
21 agement required to conduct the  
22 farming operation; or

23 “(bb) in the case of a stock-  
24 holder or member (or household  
25 comprised of a stockholder or

1 member and the spouse of the  
2 stockholder or member) that  
3 owns at least 10 percent of the  
4 beneficial interest in an entity in  
5 which all of the beneficial inter-  
6 ests are held by family members,  
7 50 percent of the commensurate  
8 share of hours of the personal  
9 labor and active personal man-  
10 agement of all family members  
11 required to conduct the farming  
12 operation.

13 “(ii) MINIMUM LABOR HOURS.—For  
14 the purpose of clause (i), the minimum  
15 number of labor hours required to produce  
16 a commodity shall be equal to the number  
17 of hours that would be necessary to con-  
18 duct a farming operation for the produc-  
19 tion of each commodity that is comparable  
20 in size to the commensurate share of an  
21 individual or entity in the farming oper-  
22 ation for the production of the commodity,  
23 based on the minimum number of hours  
24 per acre required to produce the com-  
25 modity in the State in which the farming

1 operation is located, as determined by the  
 2 Secretary.”;

3 (C) in paragraph (3)—

4 (i) by striking subparagraph (A) and  
 5 inserting the following:

6 “(A) LANDOWNERS.—An individual or en-  
 7 tity that is a landowner contributing owned  
 8 land, and that meets the requirements of sub-  
 9 clauses (II) and (III) of paragraph (2)(B)(i), if,  
 10 as determined by the Secretary—

11 “(i) the landowner share-rents the  
 12 land at a rate that is usual and customary;  
 13 and

14 “(ii) the share received by the land-  
 15 owner is commensurate with the share of  
 16 the crop or income received as rent.”;

17 (ii) in subparagraph (B)—

18 (I) in the first sentence—

19 (aa) by striking “persons”  
 20 and inserting “an individual or  
 21 entity”; and

22 (bb) by striking “standards  
 23 provided in clauses (ii) and (iii)  
 24 of paragraph (2)(A)” and insert-  
 25 ing “requirements of subclauses



1 (II) and (III) of paragraph  
2 (2)(B)(i)”; and

3 (II) by striking the second sen-  
4 tence; and

5 (iii) in subparagraph (C), by striking  
6 “standards provided in clauses (ii) and (iii)  
7 of paragraph (2)(A)” and inserting “re-  
8 quirements of subclauses (II) and (III) of  
9 paragraph (2)(B)(i)”;  
10 (D) in paragraph (4)—

11 (i) in the paragraph heading, by strik-  
12 ing “PERSONS” and inserting “INDIVID-  
13 UALS AND ENTITIES”;

14 (ii) in the matter preceding subpara-  
15 graph (A), by striking “persons” and in-  
16 serting “individuals and entities”; and

17 (iii) by striking subparagraph (B) and  
18 inserting the following:

19 “(B) OTHER INDIVIDUALS AND ENTI-  
20 TIES.—Any other individual or entity, or class  
21 of individuals or entities, that fails to meet the  
22 requirements of paragraphs (2) and (3), as de-  
23 termined by the Secretary.”;

24 (E) by redesignating paragraphs (5) and  
25 (6) as paragraphs (6) and (7), respectively;

1 (F) by inserting after paragraph (4) the  
 2 following:

3 “(5) PERSONAL LABOR AND ACTIVE PERSONAL  
 4 MANAGEMENT.—No stockholder or member may  
 5 provide personal labor or active personal manage-  
 6 ment to meet the requirements of this subsection for  
 7 any individual or entity that collectively receives, di-  
 8 rectly or indirectly, an amount equal to more than  
 9 twice the applicable limits under subsections (b), (c),  
 10 and (d) of section 1001.”; and

11 (G) in paragraph (6) (as redesignated by  
 12 subparagraph (E))—

13 (i) in the first sentence—

14 (I) by striking “A person” and  
 15 inserting “An individual or entity”;  
 16 and

17 (II) by striking “such person”  
 18 and inserting “the individual or enti-  
 19 ty”; and

20 (ii) by striking the second sentence;

21 and

22 (3) by adding at the end the following:

23 “(c) NOTIFICATION BY ENTITIES.—To facilitate the  
 24 administration of this section, each entity that receives  
 25 payments or benefits described as being subject to limita-

tion in subsection (b), (c), or (d) of section 1001 with re-  
spect to a particular farming operation shall—

“(1) notify each individual or other entity that  
acquires or holds a beneficial interest in the farming  
operation of the requirements and limitations under  
this section; and

“(2) provide to the Secretary, at such times and  
in such manner as may the Secretary may require,  
the name and social security number of each indi-  
vidual, or the name and taxpayer identification num-  
ber of each entity, that holds or acquires such a ben-  
eficial interest.”.

#### **SEC. 4. SCHEMES OR DEVICES.**

Section 1001B of the Food Security Act of 1985 (7  
U.S.C. 1308–2) is amended—

(1) by inserting “(a) IN GENERAL.—” before  
“If”;

(2) in subsection (a) (as designated by para-  
graph (1)), by striking “person” each place it ap-  
pears and inserting “individual or entity”; and

(3) by adding at the end the following:

“(b) FRAUD.—If fraud is committed by an individual  
or entity in connection with a scheme or device to evade,  
or that has the purpose of evading, section 1001, 1001A,  
or 1001C, the individual or entity shall be ineligible to

1 receive farm program payments described as being subject  
 2 to limitation in subsection (b), (c), or (d) of section 1001  
 3 for—

4 “(1) the crop year for which the scheme or de-  
 5 vice is adopted; and

6 “(2) the succeeding 5 crop years.”.

7 **SEC. 5. FOREIGN INDIVIDUALS AND ENTITIES MADE INELI-**  
 8 **GIBLE FOR PROGRAM BENEFITS.**

9 Section 1001C of the Food Security Act of 1985 (7  
 10 U.S.C. 1308–3) is amended—

11 (1) in the section heading, by striking “**PER-**  
 12 **SONS**” and inserting “**INDIVIDUALS AND ENTI-**  
 13 **TIES**”;

14 (2) in subsection (a), by striking “person” each  
 15 place it appears and inserting “individual”; and

16 (3) in subsection (b)—

17 (A) in the subsection heading, by striking  
 18 “CORPORATION OR OTHER”; and

19 (B) by striking “a corporation or other en-  
 20 tity” and inserting “an entity”.

21 **SEC. 6. SENSE OF THE SENATE.**

22 It is the sense of the Senate that any savings achieved  
 23 as a result of the amendments made by this Act should  
 24 be used to establish a permanent agricultural disaster re-  
 25 lief program.

1 **SEC. 7. REGULATIONS.**

2 (a) IN GENERAL.—The Secretary of Agriculture may  
3 promulgate such regulations as are necessary to imple-  
4 ment this Act and the amendments made by this Act.

5 (b) PROCEDURE.—The promulgation of the regula-  
6 tions and administration of this Act and the amendments  
7 made by this Act shall be made without regard to—

8 (1) the notice and comment provisions of sec-  
9 tion 553 of title 5, United States Code;

10 (2) the Statement of Policy of the Secretary of  
11 Agriculture effective July 24, 1971 (36 Fed. Reg.  
12 13804), relating to notices of proposed rulemaking  
13 and public participation in rulemaking; and

14 (3) chapter 35 of title 44, United States Code  
15 (commonly known as the “Paperwork Reduction  
16 Act”).

17 (c) CONGRESSIONAL REVIEW OF AGENCY RULE-  
18 MAKING.—In carrying out this section, the Secretary shall  
19 use the authority provided under section 808 of title 5,  
20 United States Code.

○